

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL

m/049/021



MARK L. SHURTLEFF
ATTORNEY GENERAL

RECEIVED

NOV 25 2004

DIV OF OIL GAS & MINING

RAYMOND HINTZE
CHIEF DEPUTY

Protecting Utah • Protecting You

KIRK TORGENSEN
CHIEF DEPUTY

Guy L. Black
Greenwood & Black
1840 North State Street
Provo, Utah 84604

November 23, 2004

VIA FAX (801) 377-4673

Re: Termination of Reclamation Agreement for Cherry Hill Park Mine

Dear Mr. Black:

I am in receipt of your letter of November 23, 2004. I assume you are representing Mr. Dan Powell. If you are representing any other parties please advise. You indicated that you have been provided a copy of the October 27, 2004 letter. I would suggest that you also request and review the previous correspondence including letters between Mr. Unrau, his prior counsel, and myself; and earlier correspondence between Mr. Powell and the Division. If you do, I believe you will find, that Mr. Powell has consistently failed to be forthright, and has failed to do the simple things requested of him, despite being given numerous extensions and additional opportunities to cure his defaults. It has only been through the efforts of others who have had to overcome the impediment of Mr. Powell's misrepresentations and inaction, that the site has now been partially reclaimed. The Division has been impartial and fair to Mr. Powell and has provided him the opportunity to rectify his failure to post a bond or reclaim the site. He has not fulfilled his obligations.

Mr. Powell has done nothing to justify rescinding the termination letter. Apparently he still has not been able to establish that he has a right to be on the property and to remove and sell the stockpiled material. Termination of the agreement was fully justified and reasonable in order for the Division to carry out its statutory obligation to have the site reclaimed, and to obtain bonding for all future mining activities. To the extent that reclamation is not completed or results in costs to the Division, Mr. Powell remains liable for such additional work and for all costs. However, all of his rights under the Reclamation Agreement remain forfeited.

Sincerely,

Steven F. Alder
Assistant Attorney General

Mary Ann Wright

GREENWOOD & BLACK
ATTORNEYS AT LAW

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(801) 538-7440 and U.S. Mail

November ²³~~16~~, 2004

RECEIVED

NOV 26 2004

DIV OF OIL GAS & MINING

Steven F. Alder
Assistant Attorney General
1594 West North Temple #300
Salt Lake City, Utah 84116

RE: Cherry Hill Park Mine, letter dated October 27, 2004

Dear Mr. Alder:

I have been provided with a copy of the letter of October 27, 2004, which you sent to Stephen & Dan Powell. After discussing this matter with Dan Powell, it appears to me that you were premature in sending a termination letter.

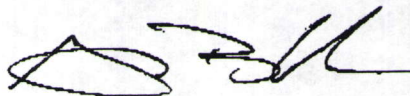
The reclamation work was largely completed prior to the date of your letter (I understand that since sending the letter you personally visited the mining site and were able to confirm the extent of the reclamation).

In addition, the Powells continue to assert that they have a valid lease agreement with Mr. Stokes. Mr. Stokes has continued to allow the Powells access to the property, and reclamation is proceeding. Therefore, your concerns regarding the lease rights are without basis, as the reclamation work is able to continue currently.

Dan Powell hereby requests that you rescind the termination letter, as the Powells are acting in good faith to finish the reclamation and satisfy the State's needs.

Thank you in advance for your patience in resolving this matter.

Sincerely,



Guy L. Black

GLB: jkh